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In re application of

Michiaki Sano

Serial No. 09/671,201

Filed: September 28, 2000

For: PLASMA PROCESSING METHOD

DECISION ON
PETITION

This is a decision on the PETITION TO RESTART PERIOD FOR RESPONSE TO OFFICE ACTION, filed February 14, 2002. The petition requests that the period for reply to the Office action dated January 9, 2002 be restarted.

DECISION

The instant PETITION is accepted as a petition, under MPEP 710.06 - PETITIONS TO RESET PERIOD FOR RESPONSE DUE LATE RECEIPT OF AN OFFICE ACTION, to reset the period for response to the Office action mailed on January 9, 2002. The requirements for such petitions are as follows:

- A. the instant petition is filed within two weeks of the date of receipt of the Office action at the correspondence address
- B. a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and
- C. the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

The petition cannot be granted at this time because the evidence provided does not establish that the Office action was received at the correspondence address on February 7, 2002. All that can be ascertained from the evidence provided is that the Office action was docketed on February 7, 2002. It is noted that the evidence provided does include a copy of the first page of the Office action marked "received" but the other than the year of 2002, the date is either missing or illegible.

The petition is also denied because even if it is established that the Office action was received at the correspondence address on February 7, 2002, the period remaining for reply would have been between 2

and 3 months. In such circumstances MPEP 710.06 sets forth that the period will be reset only in extraordinary situations. No extraordinary situation is seen to exist here, nor have petitioners asserted there to be one.

Finally, it is noted that the USPTO has developed relief procedures for mail delays involving outgoing Office correspondence mailed on or after October 13, 2001 and before January 2, 2002. Because the Office action in this application was mailed on January 7, 2002, said relief procedures do not apply thereto.

The Petition is **DENIED**.



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